

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                 |   |                        |
|-----------------|---|------------------------|
| KENNETH VAUGHN, | ) |                        |
|                 | ) |                        |
| Petitioner,     | ) |                        |
|                 | ) |                        |
| v.              | ) | Case No. 4:05CV842 HEA |
|                 | ) |                        |
| LARRY DENNY,    | ) |                        |
|                 | ) |                        |
| Respondent,     | ) |                        |

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on the Report and Recommendation, of Magistrate Judge Lewis M. Blanton that the petition of Kenneth Vaughn for a writ of habeas corpus under 28 U.S.C. § 2254 be denied. Petitioner has not filed any objections to the Report and Recommendation within the prescribed time period.

After careful consideration, the Court will adopt and sustain the sound reasoning of Judge Blanton as set forth in his April 18, 2008 Report and Recommendation.

**Certificate of Appealability**

The federal statute governing certificates of appealability provides that “[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are

debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, and the law as discussed herein, the Court finds that Movant has not made a substantial showing of the denial of a constitutional right.

Accordingly,

**IT IS HEREBY ORDERED** that the petition of Kenneth Vaughn for a writ of habeas corpus under 28 U.S.C. § 2254 is denied.

**IT IS FURTHER ORDERED** that a Certificate of Appealability will not issue.

A separate judgment in accordance with this Order is entered this same date.

Dated this 7th day of May, 2008.

A handwritten signature in cursive script, reading "Henry Edward Autrey", written in dark ink.

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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE